

6

05-2101-C

C. ADVERSARY
PLAINTIFF: Golden Road Motor Inn, I
DEBTOR: Bassel Baroudi
DEFENDANT: Bassel Baroudi
JUDGE: Hon. C. Klein

R. JOHN YOUNGS (SBN 106694)
P.O. Box 567
Placerville, CA 95667
Telephone: 530-622-7342

Attorney for Plaintiff

FILED 03/11/05 - 03:12 PM

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION IPas

RECEIPT NO: 2-5-004338 \$150.00



2005-02101

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re:

CHAPTER 7 PROCEEDING

BASSEL M. BAROUDI,

CASE NO.: 04-29793-C-7

Debtor.

ADVERSARY NUMBER:

GOLDEN ROAD MOTOR INN, INC. dba
ATLANTIS CASINO RESORT,

Plaintiff,

v.

COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT

BASSEL M. BAROUDI,

Defendant.

GOLDEN ROAD MOTOR INN, INC. dba ATLANTIS CASINO RESORT
(hereinafter "Plaintiff") respectfully represents and complains as follows:

1. This adversary proceeding is being brought in connection with the voluntary petition of BASSEL M. BAROUDI (hereinafter "Defendant") under Chapter 7 of Title 11, Case No. 04-29793-C-7 now pending in this Court. Pursuant to the Stipulation Regarding Extending Deadlines filed with the Court on December 10, 2004, the Court has determined March 15, 2005 to be the deadline date for filing this Complaint to Determine Dischargeability of Debt.

2. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. Sections 157, 1334 and 11 U.S.C. §523(a).

3. This is a core proceeding under 28 U.S.C. §157 and Plaintiff requests that the Court make a final order or judgment in the proceeding.

4. Plaintiff, GOLDEN ROAD MOTOR INN, INC. is and at all times herein

1 mentioned was a Nevada Corporation, a creditor of Defendant and the party-in-interest.

2 5. Plaintiff is the payee or holder of six (6) checks or credit instruments (hereinafter
3 "checks") all dated between approximately December 9, 2002 and December 31, 2002, each
4 executed by the Defendant and all drawn by Defendant on American River Bank, for the
5 aggregate amount of \$40,000. No part of the aggregate amount of the checks has been paid
6 despite Plaintiff's demands for payment. True copies of the checks are attached hereto,
7 marked collectively as Exhibit 1 and are fully incorporated by this reference.

8 6. On or about between approximately December 9, 2002 and December 31, 2002 by
9 the use of false pretenses, false representations or actual fraud, contrary to the provisions of
10 Bankruptcy Code §523(a)(2)(A), Defendant requested and Plaintiff provided Defendant with
11 cash or its equivalent, for each of the checks for the sole and specific purpose of gambling
12 at the fully licensed Atlantis Casino Resort, Nevada.

13 7. Defendant represented to Plaintiff when he executed and tendered each of the
14 checks to Plaintiff and obtained cash or its equivalent therefore, that each check would be
15 paid by Defendant's bank on which it was drawn, according to its terms, and that Defendant
16 was solvent at the times of each of the transactions.

17 8. On information and belief Plaintiff alleges that cash or its equivalent for each of
18 the checks was obtained by the Defendant from Plaintiff under false pretenses, false
19 representations or actual fraud, contrary to the provisions of Bankruptcy Code §523(a)(2)(A),
20 because, inter alia; (a) Defendant did not intend to and did not gamble all of the cash or its
21 equivalent he obtained from Plaintiff and kept a portion thereof for other uses, (b) Defendant
22 obtained the cash or its equivalent with the intent not to repay Plaintiff therefore, (c)
23 Defendant knew or should have known that he did not have sufficient monies on deposit or
24 credit available to him at American River Bank for each of the checks to be paid according
25 to their terms, (d) Defendant knew or should have known that he had written approximately
26 six (6) checks on a closed account(s) or a soon to be closed account(s), and (e) Defendant
27 knew or should have known that he personally and his business(es) known as Ultimate Home
28 Improvement, Ultimate Home Improvement, Inc. and Arabian Nights were insolvent at the

1 times each of the checks were executed or tendered to Plaintiff.

2 9. Plaintiff reasonably relied on the truth and accuracy of the Defendant's aforesaid
3 materially false representations at each of the times Plaintiff provided the Defendant with
4 the cash or its equivalent requested by Defendant for the aggregate value of \$40,000.

5 10. Plaintiff is entitled to damages of not less than \$100 per check, in addition to the
6 face amounts of each of the checks since Plaintiff has fully complied with the provisions of
7 both California Civil Code §1719 and Nevada Revised Statutes §41.620.

8 11. Plaintiff has performed all acts, covenants and conditions required to be
9 performed on its part as to each of the transactions referred to herein.

10 12. As a direct and proximate result of the Defendant's use of false pretenses, false
11 representations or actual fraud contrary to the provisions of Bankruptcy Code §523(a)(2)(A),
12 Plaintiff has been damaged in the aggregate sum of \$40,000 plus damages pursuant to
13 California Civil Code §1719 and Nevada Revised Statutes §41.620, attorney's fees, costs and
14 interest thereon at the rate of 10% per annum from December 31, 2002.

15 WHEREFORE, Plaintiff prays for Relief and Judgment as follows:

16 1. That the Court determine that the debts owed by the Defendant to the Plaintiff are
17 non-dischargeable under Bankruptcy Code §523(a)(2)(A).

18 2. That the Court determine the remaining issues and render judgment in favor of the
19 Plaintiff for the sum of \$40,000, plus damages pursuant to California Civil Code §1719,
20 attorney's fees, costs and interest at the rate of 10% per annum from December 31, 2002.

21 3. For such other and further relief as the Court may deem just and proper.
22

23
24 Dated: 3/4, 2005


25 R. JOHN YOUNGS, Attorney for Plaintiff
26 GOLDEN ROAD MOTOR INN, INC. dba
27 ATLANTIS CASINO RESORT
28

BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

438967 **EXHIBIT 1**

CHECK #:
DATE: DEC.09,2002

PAY TO THE ORDER OF ATLANTIS

\$1,000.00

ONE THOUSAND DOLLARS & 00/100 CENTS
U.S. DOLLARS

---REFERENCED COUNTER CHECKS
438288

121140263
CASINO RESORT • RENO

BASSEL BAROUDI

0000100000

121140263

211017846

0000100000

BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

CHECK # 439015
DATE: DEC.31,2002

PAY TO THE ORDER OF ATLANTIS

\$5,000.00

FIVE THOUSAND DOLLARS & 00/100 CENTS

U.S. DOLLARS

121140263
CASINO RESORT • RENO

BASSEL BAROUDI

0000500000

BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

CHECK # 439007
DATE: DEC.31,2002

PAY TO THE ORDER OF ATLANTIS

\$5,000.00

FIVE THOUSAND DOLLARS & 00/100 CENTS

U.S. DOLLARS

121140263
CASINO RESORT • RENO

BASSEL BAROUDI

0000500000

16237
BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

CHECK #: 439040
DATE: DEC. 31, 2002

PAY TO THE
ORDER OF ATLANTIS

\$9,000.00

NINE THOUSAND DOLLARS

U.S. DOLLARS

Atlantis
CASINO RESORT • RENO • NEV.

BASSEL BAROUDI SIGNATURE
000000000000

121140263

0211017846

000000000000

BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

CHECK #: 439029
DATE: DEC. 31, 2002

PAY TO THE
ORDER OF ATLANTIS

\$10,000.00

TEN THOUSAND DOLLARS

U.S. DOLLARS

Atlantis
CASINO RESORT • RENO • NEV.

BASSEL BAROUDI SIGNATURE
000000000000

BASSEL BAROUDI
AMERICAN RIVER BANK
121140263
0211017846

CHECK #: 439018
DATE: DEC. 31, 2002

PAY TO THE
ORDER OF ATLANTIS

\$10,000.00

TEN THOUSAND DOLLARS

U.S. DOLLARS

Atlantis
CASINO RESORT • RENO • NEV.

BASSEL BAROUDI SIGNATURE
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